



January 25, 2002

HOUSE BILL No. 1252

DIGEST OF HB 1252 (Updated January 23, 2002 4:55 PM - DI 77)

Citations Affected: IC 12-10; IC 16-25; IC 16-27; noncode.

Synopsis: Self-directed care services. Permits certain individuals who are not licensed health care professionals to provide health related services to individuals who need in-home care services. Provides a two year registration period for personal services attendants. Extends the self-directed care services expiration provision. Establishes temporary bookkeeping and payroll service requirements. Provides that hospice and home health agency employees who have received training from a registered nurse, which has been approved by the attending physician, may perform medical activities that have been delegated. Requires the division of disability, aging, and rehabilitative services to adopt payment and record keeping rules. (The introduced version of this bill was prepared by the health finance commission.)

Effective: Upon passage.

Becker, Budak, Brown C, Welch

January 14, 2002, read first time and referred to Committee on Public Health.
January 24, 2002, amended, reported — Do Pass.

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January 25, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1252

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-10-17-5, AS ADDED BY P.L.255-2001,
2 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 5. As used in this chapter, "health related
4 services" means those medical activities that:

5 (1) in the opinion of the attending physician, could be performed
6 by the individual if the individual were physically capable, and if
7 the medical activity can be safely performed in the home; ~~and~~

8 (2) **in the opinion of the attending physician:**

9 (A) **the individual who receives the medical activity; or**

10 (B) **the person who is legally responsible for making health
11 related decisions for the individual with a disability;**

12 **is capable of training or instructing the person who will**
13 **perform the medical activity, and the individual has trained**
14 **or instructed the person who will perform the medical**
15 **activity; or**

16 (3) **the person who performs the medical activity has received**
17 **training or instruction from a licensed health professional, within**

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the professional's scope of practice, in how to properly perform the medical activity for the individual in need of self-directed services.

SECTION 2. IC 12-10-17-12, AS ADDED BY P.L.255-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The division shall register an individual who provides the following:

(1) A personal resume containing information concerning the individual's qualifications, work experience, and any credentials the individual may hold. The individual must certify that the information contained in the resume is true and accurate.

(2) The individual's limited criminal history check from the Indiana central repository for criminal history information under IC 5-2-5 or another source allowed by law.

(3) If applicable, the individual's state nurse aide registry report from the state department of health. This subdivision does not require an individual to be a nurse aide.

(4) Three (3) letters of reference.

(5) A registration fee. The division shall establish the amount of the registration fee.

(6) Proof that the individual is at least eighteen (18) years of age.

(7) Any other information required by the division.

(b) A registration is valid for ~~one (1) year~~ **two (2) years**. A personal services attendant may renew the personal services attendant's registration by updating any information in the file that has changed and by paying the fee required under subsection (a)(5). The limited criminal history check and report required under subsection (a)(2) and (a)(3) must be updated every two (2) years.

(c) The division **and any organization designated under section 11 of this chapter** shall maintain a file for each personal services attendant that contains:

(1) comments related to the provision of attendant care services submitted by an individual in need of self-directed in-home care who has employed the personal services attendant; and

(2) the items described in subsection (a)(1) through (a)(4).

(d) Upon request, the division shall provide to an individual in need of self-directed in-home care the following:

(1) Without charge, a list of personal services attendants who are registered with the division and available within the requested geographic area.

(2) A copy of the information of a specified personal services attendant who is on file with the division under subsection (c).

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The division may charge a fee for shipping, handling, and copying expenses.

SECTION 3. IC 12-10-17-21, AS ADDED BY P.L.255-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. This chapter expires July 1, ~~2003~~ **2007**.

SECTION 4. IC 16-25-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **If, in the opinion of the attending physician, a registered nurse who is employed by a hospice is capable of training or instructing individuals who will perform a specific medical activity, including activities that require the penetration of the skin or body orifice, and the nurse:**

(1) has trained and instructed an individual in the performance of the medical activity; and

(2) has delegated the performance of the medical activity to the individual;

the individual may perform that medical activity for patients of the hospice while the individual is employed by the hospice.

SECTION 5. IC 16-27-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. **If, in the opinion of the attending physician, a registered nurse who is employed by a home health agency is capable of training or instructing individuals who will perform a specific medical activity, including activities that require the penetration of the skin or body orifice, and the nurse:**

(1) has trained and instructed an individual in the performance of the medical activity; and

(2) has delegated the performance of the medical activity to the individual;

the individual may perform that medical activity for patients of the home health agency while the individual is employed by the home health agency.

SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 12-10-17 apply to this SECTION.**

(b) Notwithstanding IC 12-10-17-15, an individual in need of in-home care who has hired a personal services attendant who has been approved by the division of disability, aging, and rehabilitative services shall hire a fiscal agent to provide payroll and bookkeeping services, including the following:

(1) Assisting the individual in completing and submitting applications for state and federal employment tax identification numbers, unemployment insurance, and

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worker's compensation insurance.

(2) Processing payroll, including income tax withholdings, Social Security deductions under the Federal Insurance Contributions Act (FICA), worker's compensation, and wages.

(3) Disbursing checks to the personal services attendant and proper governmental agencies. The fiscal agent shall prepare a check for the fiscal agent's services that must be signed by the individual in need of in-home care.

(4) Preparing employer tax forms, including W-4 forms.

(5) Supplying weekly time slips to be used by the individual in need of in-home care.

(c) The fiscal agent must be a private accounting firm or a nonprofit corporation, association, or organization located in Indiana.

(d) The fiscal agent that is selected by the individual in need of in-home care shall register with the division of disability, aging, and rehabilitative services before providing bookkeeping services.

(e) Subject to IC 12-10-17-14(b), the individual in need of in-home care shall deliver the personal services attendant's time sheet to the fiscal agent.

(f) Subject to IC 12-10-17-14(b), the time sheet must be certified:

(1) by the personal services attendant that the hours were worked as recorded; and

(2) by the individual in need of in-home care that the services were rendered as recorded and that the services were within the limits of the authorized care plan.

(g) Before July 1, 2003, the division shall adopt rules under IC 4-22-2 concerning:

(1) the method of payment to a personal services attendant who provides authorized services under IC 12-10-17;

(2) the method of payment for the fiscal agent who provides authorized services under IC 12-10-17; and

(3) record keeping requirements for personal attendant services.

(h) This SECTION expires July 1, 2003.

SECTION 7. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1252, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 8, after "physician" insert ":

(A)".

Page 1, line 9, after "activity" insert ";or

(B) the person who is legally responsible for making health related decisions for the individual with a disability;".

Page 1, line 9, beginning with "is" begin a new line block indented.

Page 2, line 26, after "division" insert "**and any organization designated under section 11 of this chapter**".

Page 2, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 3. IC 12-10-17-21, AS ADDED BY P.L.255-2001, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. This chapter expires July 1, ~~2003~~: **2007**.

SECTION 4. IC 16-25-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11. If, in the opinion of the attending physician, a registered nurse who is employed by a hospice is capable of training or instructing individuals who will perform a specific medical activity, including activities that require the penetration of the skin or body orifice, and the nurse:**

(1) has trained and instructed an individual in the performance of the medical activity; and

(2) has delegated the performance of the medical activity to the individual;

the individual may perform that medical activity for patients of the hospice while the individual is employed by the hospice.

SECTION 5. IC 16-27-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 17. If, in the opinion of the attending physician, a registered nurse who is employed by a home health agency is capable of training or instructing individuals who will perform a specific medical activity, including activities that require the penetration of the skin or body orifice, and the nurse:**

(1) has trained and instructed an individual in the performance of the medical activity; and

(2) has delegated the performance of the medical activity to the individual;

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the individual may perform that medical activity for patients of the home health agency while the individual is employed by the home health agency."

Page 3, line 42, delete "and".

Page 3, after line 42, begin a new line block indented and insert:

"(2) the method of payment for the fiscal agent who provides authorized services under IC 12-10-17; and"

Page 4, line 1, delete "(2)" and insert **"(3)"**.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1252 as introduced.)

BROWN C, Chair

Committee Vote: yeas 12, nays 0.

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